



# House of Representatives

## File No. 873

General Assembly

January Session, 2015

**(Reprint of File No. 214)**

Substitute House Bill No. 5092  
As Amended by House Amendment  
Schedules "A" and "B"

Approved by the Legislative Commissioner  
May 21, 2015

### **AN ACT CONCERNING THE DISCONTINUANCE OF HIGHWAYS AND PRIVATE WAYS BY MUNICIPALITIES.**

Be it enacted by the Senate and House of Representatives in General  
Assembly convened:

1 Section 1. Section 13a-49 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2015, and*  
3 *applicable to discontinuances or partial discontinuances proposed to take effect*  
4 *on or after said date*):

5 (a) (1) The selectmen of any town may, subject to approval by a  
6 majority vote at any regular or special town meeting, as applicable, by  
7 a writing signed by them, discontinue any highway or private way, or  
8 land dedicated as such, in its entirety, or may discontinue any  
9 [portion] part thereof or any property right of the town or public  
10 therein, except when laid out by a court or the General Assembly, and  
11 except where such highway is within a city, or within a borough  
12 having control of highways within its limits. [Any]

13 (2) Whenever the selectmen of a town meet to take final action on  
14 the discontinuance or partial discontinuance of a highway or private

15 way, or land dedicated as such, the selectmen shall provide written  
16 notice of their meeting to each owner of property that bounds such  
17 highway or private way, or land dedicated as such. If, in the opinion of  
18 the selectmen, the boundary lines or limits of such highway or private  
19 way, or land dedicated as such, have become lost or uncertain, the  
20 selectmen shall make reasonable efforts to identify the boundary lines  
21 or limits of such highway or private way, or land dedicated as such,  
22 and shall give notice of such meeting to each owner of property that  
23 bounds such identified boundary line or limit in accordance with this  
24 subdivision. Such reasonable efforts need not include an examination  
25 of title, or abstracts thereof, or a land survey. The notice required  
26 pursuant to this subdivision shall not be required if the selectmen  
27 make a finding on the record, supported by articulated fact, that (A)  
28 such owner's property does not bound a part of such highway or  
29 private way, or land dedicated as such, or identified boundary line or  
30 limit of such highway or private way, or land dedicated as such, that is  
31 being discontinued, (B) such notice is not necessary, and (C) such  
32 property would not lose its sole access to a highway or private way, or  
33 land dedicated as such, because of such discontinuance or partial  
34 discontinuance. Such notice shall be provided by mailing a notice of  
35 the date, time, place and subject of such meeting of the selectmen to  
36 such owner at such owner's address, as shown on the last-completed  
37 grand list of the town, by first class mail postmarked not less than  
38 thirty days prior to the date of such meeting. Thirty days prior to the  
39 date of such meeting, the town shall post a sign conspicuously on both  
40 ends of such highway or private way, or land dedicated as such, or  
41 part thereof, which shall include the date, time, place and subject of  
42 such meeting, except that such sign shall only be required on one end  
43 of such highway or private way, or land dedicated as such, if the  
44 selectmen make a finding on the record, supported by articulated fact,  
45 that such sign is only necessary on one end of such highway or private  
46 way, or land dedicated as such.

47 (3) If the town discontinues any highway or private way, or land  
48 dedicated as such, or discontinues any part thereof or any property

49 right of the town or public therein in accordance with subdivision (1)  
50 of subsection (a) of this section, the selectmen shall (A) provide written  
51 notice by certified mail, return receipt requested, of such  
52 discontinuance or partial discontinuance to the same persons to whom  
53 notice was sent pursuant to subdivision (2) of this section, and (B) after  
54 such written notice is sent, cause to be recorded on the land records of  
55 the town a notice of such discontinuance or partial discontinuance,  
56 which notice shall include (i) a listing of each parcel of property for  
57 which notice was required to be sent pursuant to subdivision (2) of this  
58 subsection, (ii) the name of the owner of each such parcel of property  
59 as shown in the last-completed grand list of the town, and (iii) the  
60 current assessor's map, block and lot number for each such parcel.

61 (4) (A) Except as provided in subparagraph (B) of this subdivision,  
62 any person aggrieved [may be relieved by application] by a  
63 discontinuance or partial discontinuance under this subsection may,  
64 not later than one hundred twenty days after notice of discontinuance  
65 or partial discontinuance is recorded on the land records of the town  
66 pursuant to subdivision (3) of this subsection, apply to the [Superior  
67 Court, to be made and proceeded with] superior court for the judicial  
68 district in which such town is located, in the manner prescribed in  
69 section 13a-62, as amended by this act.

70 (B) Any owner of property who is aggrieved by the failure to  
71 receive the meeting notice required under subdivision (2) of this  
72 subsection may apply to the superior court for the judicial district in  
73 which such town is located not later than one hundred twenty days  
74 after notice of discontinuance or partial discontinuance is recorded on  
75 the land records of the town pursuant to subdivision (3) of this  
76 subsection. No discontinuance or partial discontinuance shall be  
77 invalidated by such court on the basis of the selectmen's failure to  
78 provide the meeting notice required under subdivision (2) of this  
79 subsection to an owner of property if the town establishes that (i) a  
80 meeting notice that meets the requirements of subdivision (2) of this  
81 subsection was mailed in accordance with subdivision (2) of this  
82 subsection to such owner's address, as shown in the applicable last-

83 completed grand list of the town, or (ii) the selectmen made a good  
84 faith effort to identify the parcels of property that bound the highway  
85 or private way, or land dedicated as such, or such identified boundary  
86 line or limit, in accordance with subdivision (2) of this subsection, and  
87 mailed notice in accordance with subdivision (2) of this subsection to  
88 each owner of such identified parcels of property, as shown in the  
89 applicable last-completed grand list of the town.

90 (b) Whenever a petition has been presented to the selectmen for  
91 such discontinuance or partial discontinuance of any land dedicated as  
92 a highway or private way but which has not been actually used,  
93 worked or accepted [ ] as a highway [ ] by the town, and such  
94 discontinuance or partial discontinuance has not been made by the  
95 selectmen and approved by the town within twelve months after such  
96 presentation, any person aggrieved may [be relieved by application to  
97 said court, to be made and proceeded with] apply to the superior court  
98 for the judicial district in which such town is located, in the manner  
99 prescribed in section 13a-62, as amended by this act.

100 Sec. 2. Section 13a-62 of the general statutes is repealed and the  
101 following is substituted in lieu thereof (*Effective October 1, 2015*):

102 Any person aggrieved by the doings of the selectmen in laying out a  
103 highway may, within [eight months] one hundred twenty days after  
104 the survey thereof has been accepted by the town, apply to the  
105 superior court for the judicial district in which such town is located for  
106 relief, causing such selectmen to be cited to show cause why such relief  
107 should not be granted. Such application shall be heard and determined  
108 by a committee of three disinterested persons to be appointed by the  
109 court. If such committee finds that such highway is not of common  
110 convenience and necessity, said court shall set aside such layout, and,  
111 if said court sets aside such layout, the costs shall be paid by the town;  
112 but, if such committee finds that such highway is of common  
113 convenience and necessity, the application shall be dismissed with  
114 costs. The report of such committee may be set aside by the court for  
115 any irregularity or improper conduct on its part. Proceedings under

116 this section shall not prevent or delay the opening or occupation of  
117 such highway.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2015, and applicable to discontinuances or partial discontinuances proposed to take effect on or after said date</i>	13a-49
Sec. 2	<i>October 1, 2015</i>	13a-62

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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### ***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:***

<b>Municipalities</b>	<b>Effect</b>	<b>FY 16 \$</b>	<b>FY 17 \$</b>
All Municipalities	Potential Cost	Less than \$5,000	Less than \$5,000

### ***Explanation***

The bill requires municipalities to notify adjoining property owners when taking final action on the discontinuance of a highway or private way.

There is a cost, estimated to be less than \$5,000 annually, to those municipalities that discontinue a highway or private way. Such cost is associated with: 1) posting signage concerning the discontinuance on the effected highway; and 2) mailing such notices to effected property owners.

House "A" 1) makes a minor change to the effective date of the underlying bill; 2) expands the types of highway discontinuances the bill applies to; and 3) makes changes to the deadlines for a property owner to file a grievance related to highway discontinuances. These changes have no fiscal impact.

House "B" strikes the underlying bill and House "A", and results in the above identified fiscal impact.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would

continue into the future subject to inflation.

**OLR Bill Analysis****sHB 5092 (as amended by House "A" and "B")\******AN ACT CONCERNING THE DISCONTINUANCE OF HIGHWAYS  
AND PRIVATE WAYS BY MUNICIPALITIES.*****SUMMARY:**

This bill requires town selectmen, before they meet to take final action on the discontinuance of all or part of a highway, private way, or land dedicated to such use, to notify owners of certain abutting properties. It requires the selectmen to mail notification of and record certain information in the land records if both the selectmen and a majority vote at a town meeting approve the discontinuance. These provisions apply to any discontinuances proposed to take effect on or after October 1, 2015.

By law, with limited exceptions, selectmen can discontinue all or part of a highway, private way, or land dedicated to such use. Such discontinuance requires approval by a majority vote at a regular or special town meeting.

The bill allows a property owner who is aggrieved because he or she did not receive the required meeting notice to apply to the Superior Court for relief within 120 days after the discontinuance notice is recorded in the land records. It reduces, from eight months to 120 days, the period during which a person aggrieved by a discontinuance may appeal to Superior Court.

Additionally, the bill reduces, from eight months to 120 days, the period during which an aggrieved person may appeal to Superior Court the selectmen's (1) decision to lay out (i.e., designate) a highway or (2) failure to act on a discontinuance petition within 12 months.



Finally, the bill makes technical changes.

\*House Amendment "A" makes technical changes and (1) limits the property owners that the selectmen must notify to include only owners of property that bounds the discontinued portion of a highway, private way, or land dedicated to such use, rather than anyone owning property along the entire boundary of the highway, private way, or land dedicated to such use and (2) reduces, from six months to 30 days, the period for appealing to Superior Court (a) a discontinuance, (b) the selectmen's failure to provide required notice, (c) the laying out of a highway, or (d) the selectmen's failure to act on a discontinuance petition.

\*House Amendment "B" replaces the underlying bill as amended by House Amendment "A" by (1) modifying notice requirements; (2) reducing, from six months as in the original bill (File 214) to 120 days, the period for appealing to Superior Court (a) a discontinuance, (b) the selectmen's failure to provide required notice, (c) the laying out of a highway, or (d) the selectmen's failure to act on a discontinuance petition; and (3) making technical changes.

EFFECTIVE DATE: October 1, 2015, and applicable to discontinuances or partial discontinuances proposed to take effect on or after that date.

### **MEETING TO ACT ON A DISCONTINUANCE**

Under the bill, starting October 1, 2015, before selectmen meet to take final action on a discontinuance, they must send written notice of the meeting to the owner of each property that bounds the highway, private way, or dedicated land, or part being discontinued. The notice must (1) include the date, time, place, and subject of the meeting and (2) be sent by first class mail at least 30 days before the meeting to each property owner's address, as shown on the most recent grand list. If the selectmen believe that the boundary lines of a highway or private way have become lost or uncertain, they must make reasonable efforts to identify the lines and notify the owners that bound such lines. The

reasonable efforts do not have to include (1) examining titles or abstracts or (2) a land survey.

However, the selectmen need not send such notice to a property owner if they make a finding on the record supported by articulated fact that:

1. the owner's property does not bound the discontinued portion of the highway, private way, or dedicated land,
2. such notice is unnecessary, and
3. the property owner will not lose his or her sole access to a highway, private way, or land dedicated to such use following the discontinuance.

Under the bill, at least 30 days before the meeting, the selectmen must conspicuously post a sign on each end of the highway, private way, or dedicated land, or part being discontinued indicating the date, time, place, and subject of the meeting. Only one sign is required if the selectmen make a finding on the record supported by articulated fact that only one sign is necessary.

### **PROVIDING NOTICE OF AN APPROVED DISCONTINUANCE**

Under the bill, if the selectmen and a majority of the town meeting approve a discontinuance on or after October 1, 2015, the selectmen must:

1. first, send notice of the decision, by certified mail, return receipt requested, to each property owner who was sent notice prior to the meeting to take final action on the discontinuance, and
2. next, record notice of the approval in the land records. The notice must include (1) a list of each parcel that bounds the affected highway, private way, or dedicated land and for which notice was required prior to the meeting to take final action on the discontinuance; (2) the name of each such parcel owner, as

shown in the most recent grand list; and (3) the current assessor's map, block, and lot number for each such parcel.

### **INVALIDATING A DISCONTINUANCE**

Under the bill, a discontinuance or partial discontinuance may not be invalidated on the basis of the selectmen's failure to provide the required meeting notice if the town establishes that (1) the notice was mailed to the owner's address as shown on the most recent grand list or (2) the selectmen (a) made a good-faith effort to identify the parcels that bound the highway, private way, dedicated land, or identified boundary line and (b) mailed notice to each owner, as shown on the most recent grand list.

### **BACKGROUND**

#### ***Grand List***

The grand list is a listing of all real estate parcels within a municipality. The listing generally includes a (1) property owner's address, (2) property location, and (3) its assessed value.

#### ***Related Law***

The law gives property owners bounding a partially or completely discontinued or abandoned highway a right-of-way over such highway to the nearest or most accessible highway (CGS § 13a-55).

### **COMMITTEE ACTION**

Planning and Development Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/13/2015)